THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7848 of 1998

ORAL ORDER:

This writ petition is filed seeking a Mandamus declaring the order passed by the second respondent in Memo dated 16.3.1998 as arbitrary, illegal, without jurisdiction and violative of principles of natural justice.

It appears, petitioner was appointed as Assistant (Accounts) in the first respondent Corporation with effect from 24.4.1979 against a vacancy meant for Scheduled Tribe quota. Thereafter, he was promoted as Senior Assistant in the year 1982 and at that time, he was asked to produce caste certificate and he has produced the certificate issued by the authorities. Thereafter, it appears, the Union Public Service Commission asked the petitioner to produce the caste certificate issued by the Tahsildar. When the Tahsildar concerned refused to issue caste certificate, petitioner filed W.P.No.4303 of 1974 before this Court and in view of the orders of this Court, the Tahsildar ultimately issued caste certificate declaring that the petitioner belongs to 'konda kapu' community.

In spite of the same, on 5.9.1986, the respondents initiated disciplinary proceedings against the petitioner and conducted an enquiry into the matter. However, the enquiry officer found that the charges were not proved and gave a report to that effect on 20.1.1990. While that being so, the disciplinary authority differed with the enquiry officer's report and came to the conclusion that the petitioner was guilty of the charges and as such issued a show cause notice on 13.3.1998. In the said show cause notice, no time was prescribed for submitting explanation. Immediately, on 16.3.1998 impugned orders were passed terminating the services of the petitioner on the ground that he failed to submit fresh caste certificate in the prescribed proforma. Aggrieved by the same, the present writ petition is filed.

There is no necessity of going into all the details. It is suffice to notice that while admitting the writ petition, this Court by order dated 25.3.1998 in W.P.M.P.No.9587 of 1998 suspended the impugned order and the said order was made absolute. Thereafter, the matter was carried in appeal by

way of W.A.No.1043 of 1999 and the same was also dismissed by order dated 26.7.1999. Thus, the petitioner had continued in service and retired on attaining the age of superannuation with effect from 31.1.2006.

Apart from this, the caste certificate issued by the Tahsildar in the year 1978 and also fresh certificate issued by him on 2.4.1984 were in existence and they were not challenged nor any enquiry was conducted by the competent authority as required under the law to decide the caste of the petitioner. Whether the petitioner belongs to 'konda kapu' community or otherwise, unless and until, the caste certificate is cancelled by the competent authority, the respondents ought not to have initiated action against the petitioner on the ground that he has not produced fresh caste certificate. In fact, he has produced two certificates, one at the time of his appointment in the year 1979 and a fresh certificate on 2.4.1984. The impugned order was passed only on the ground that the petitioner failed to submit a fresh certificate in the proforma prescribed by the Department. I am of the considered opinion that on such flimsy grounds, dismissing the petitioner from service is atrocious, unreasonable and it does not stand scrutiny of law.

In the result, the writ petition is allowed and the impugned order dated 16.3.1998 is set aside and the respondents are directed to settle all the retiral benefits of the petitioner forthwith. No order as to costs.

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C.V.RAMULU,
J

Date: 18.4.2007
DA

THE HON'BLE SRI JUSTICE C.V.RAMULU

W.P.No.7848 of 1998

18.4.2007

IN THE HIGH COURT OF JUDICATURE OF ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE SRI JUSTICE C.V. RAMULU

W.P.No.7848 of 1998

Date: 18th April, 2007

Between:

Jani Nagaraju

.. Petitioner

And

The Chairman-cum-Managing Director,
Dredging Corporation of India Ltd.,
Port Area, Visakhapatnam & another.

.. Respondents